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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MAY 25, 2001

APPLICATION OF

LOUDOUN COUNTY POWER COMPANY, LLC

CASE NO. PUE010171

For a certificate of public
convenience and necessity for electric
generation facilities in Loudoun County

ORDER FOR NOTICE AND HEARING

On March 28, 2001, as supplemented on May 15, 2001, Loudoun County Power Company, LLC ("Loudoun County Power" or "Company"), applied for a certificate of public convenience and necessity authorizing construction and operation of electric generation facilities in Loudoun County. Loudoun County Power proposes to locate generation facilities east of the Town of Leesburg and adjacent to the Washington & Old Dominion Railroad Regional Park. The proposed location is described in the public notice prescribed in ordering paragraph (18) of this Order.

The Company plans to build a combined-cycle facility of up to 1,400 megawatts net generation capacity. According to the application, construction of 700 megawatts of capacity would begin in 2002, and commercial operation of this first phase would begin in 2004. Construction of up to 700 megawatts of additional capacity would begin in 2003, and commercial

operation of the second phase would start in 2005. Natural gas supplied by existing Columbia Gas Transmission and Dominion Transmission, Inc., pipelines would fuel the facility. There would be no gas storage.

In the alternative, the Company proposes a combustion turbine facility of 535 megawatts net generation capacity. According to Loudoun County Power, the combustion turbine facility would be constructed at the same location if the County of Loudoun does not approve zoning for the combined-cycle facility. The combustion turbine facility would use natural gas as the primary fuel with fuel oil stored on the site as a secondary fuel. Either facility would interconnect at Virginia Electric and Power Company's Pleasant View Substation, which is adjacent to the site.

Loudoun County Power applied for a certificate under the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 et seq.) of Title 56 of the Code of Virginia. According to the Company, the facilities would operate as a merchant plant exclusively in the wholesale electric power market. In addition to a certificate, Loudoun County Power has requested that the Commission, as authorized by § 56-265.2 B of the Code, exempt the facilities from the ratemaking and other regulatory requirements of Chapter 10 (§ 56-232 et seq.) of Title 56 the Code.

The Company expressly seeks a waiver of, or exemption from, § 56-234.3 of Chapter 10, which requires Commission approval before an electric utility makes financial commitments or expenditures for new generation facilities of 100 megawatts capacity or larger. In support of this request, Loudoun County Power stated in its application that its project requires expenditures for site preparation and permitting before the Commission will take final action. The Company would undertake these activities at its own risk.

Finally, Loudoun County Power requested a waiver of the Commission's Information Requirements in Support of Petitions for Independent Power Facilities, 20 VAC 5-320-10, which requires applicants to give the Commission 30 days' notice of an application.

The Commission finds that, as provided by §§ 56-265.2, 56-580 D, and related provisions of Title 56 of the Code, this matter should be docketed. Although Loudoun County Power offered no reason for not complying with our requirement set out in 20 VAC 5-320-10 to give advance notice of an application, the Commission will grant the waiver. As we noted in CinCap-Martinsville, LLC, Case No. PUE010169, Order for Notice and Hearing of May 18, 2001, the advance notice requirement is intended to benefit applicants by alerting the Commission.

Advance notice permits allocation of resources and expedites processing once the application is filed.

With regard to § 56-234.3 of the Code, the Commission will consider whether a waiver should be granted to the construction approval requirement. Any waiver granted would be interim pending entry of a final order in which we determine whether the facilities should be authorized and exempted from the requirements of or denial Chapter 10 (§ 56-232 et seq.) of Title 56 of the Code. The grant of an interim waiver of the construction approval requirement will not determine whether the Commission will or will not authorize the generation facilities. We will establish procedures for addressing this issue.

The Commission will set the application for a certificate and all other issues for hearing before a hearing examiner. The Commission will direct the Company to give notice so that interested persons and agencies may comment and participate in this proceeding. We will also direct the Commission Staff to investigate the application.

Accordingly, IT IS ORDERED THAT:

(1) As provided by §§ 56-46.1, 56-265.2, 56-580 D, and related provisions of Title 56 of the Code of Virginia, this matter be docketed as Case No. PUE010171 and that all associated papers be filed therein.

(2) The Company's request for a waiver of the Commission's Information Requirements in Support of Petitions for Independent Power Facilities, 20 VAC 5-320-10, be granted.

(3) On or before June 8, 2001, the Company may file with the Clerk any additional testimony and exhibits by which it expects to establish its case.

(4) On or before June 25, 2001, any interested person may file with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, an original and fifteen (15) copies of comments on the Company's request for an interim waiver of the requirements of § 56-234.3 of the Code of Virginia and any request for a hearing on the issue, and shall serve one (1) copy on counsel to the Company, Stephen H. Watts, II, Esquire, McGuireWoods LLP, One James Center, 901 East Cary Street, Richmond, Virginia 23219-4030. Any request for a hearing should state the specific grounds and describe the evidence that the requesting person intends to introduce at such hearing.

(5) On or before June 28, 2001, the Commission Staff may file with the Clerk an original and fifteen (15) copies of any comments on the Company's request for a waiver and shall serve a copy on the Company and all persons filing comments or a request for a hearing.

(6) On or before July 3, 2001, the Company may file with the Clerk an original and fifteen (15) copies of any response to comments on the request for a waiver and shall serve a copy on all persons filing comments or a request for a hearing.

(7) A public hearing to receive comments from the public on the application for a certificate of public convenience and necessity be held on September 6, 2001, beginning at 2:00 p.m., and reconvening at 7:00 p.m., in the Board of Supervisors Meeting Room, Loudoun County Government Center, 1 Harrison Street, S.E., Leesburg, Virginia.

(8) The hearing be continued on September 13, 2001, at 10:00 a.m. in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, to receive comments from members of the public who could not speak at the hearing on September 6, 2001, and to receive evidence on the application.

(9) As provided by § 12.1-31 of the Code of Virginia and the Commission's Rules of Practice and Procedure ("the Rules"), 5 VAC 5-10-520, a hearing examiner be appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.¹

¹The Commission's Rules of Practice and Procedure, 5 VAC 5-10-10 through 5 VAC 5-10-620, have been revised. Commonwealth of Virginia ex rel: State Corporation Commission Ex Parte: In the matter concerning revised State Corporation Commission Rules of Practice and Procedure, Case No. CLK000311, Final Order Promulgating State Corporation Commission Rules of Practice and

(10) On or before June 29, 2001, any person who expects to participate as a respondent shall file with the Clerk at the address set out in ordering paragraph (3) a notice of participation as a respondent, as required by the Rules, 5 VAC 5-20-80 B, and shall serve a copy on counsel to the Company identified in ordering paragraph (4) and on Commission Staff counsel assigned to the matter, Wayne N. Smith, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218-1197. The respondent shall file and serve the notice of participation as required by the Rules, 5 VAC 5-20-140 and 5 VAC 5-20-150. Any organization, corporation, or government entity participating as a respondent must be represented by counsel as required by the Rules, 5 VAC 5-20-30.

(11) Within five (5) days of receipt of a notice of participation as a respondent, the Company shall serve upon each respondent a copy of this Order, a copy of the application, and all materials now or hereafter filed with the Commission, unless these materials have already been provided.

(12) On or before July 17, 2001, written comments on the Company's application may be filed with the Clerk at the address

Procedure of April 30, 2001. After June 1, 2001, proceedings before hearing examiners will be governed by 20 VAC 5-20-120, and the revised Rules, 5 VAC 5-20-10 through 5 VAC 5-20-280, will also apply to the extent not inconsistent with this Order.

set out in ordering paragraph (3). Comments must refer to Case No. PUE010171.

(13) On or before August 3, 2001, each respondent shall file with the Clerk the testimony and exhibits by which it expects to establish its case and shall serve a copy of the testimony and exhibits on counsel to the Company and on all other parties. The respondent shall comply with the Rules, 5 VAC 5-20-140, 5 VAC 5-20-150, and 5 VAC 5-20-240.

(14) The Commission Staff shall investigate the Company's application and, on or before August 17, 2001, shall file with the Clerk the testimony and exhibits it intends to present at the hearing and copies of any workpapers that support the recommendations made in its testimony. Copies of the testimony and exhibits shall be served on all parties.

(15) On or before August 31, 2001, the Company may file with the Clerk all testimony and exhibits that it expects to offer in rebuttal to direct testimony and exhibits of the Commission Staff and respondents and shall serve one copy on all parties. Additional rebuttal evidence may be presented in response to evidence which was not filed, but elicited at the hearing, provided that the need for the additional rebuttal evidence is timely addressed by motion during the hearing.

(16) The Rules, 5 VAC 5-20-260, Interrogatories to Parties or Requests for Production of Documents and Things, shall be modified for this proceeding as follows: (i) answers and objections shall be served within fourteen (14) calendar days after receipt of interrogatories, counting weekends and holidays; (ii) motions on the validity of any objections raised by answers shall be filed within five (5) working days of receipt of the objection; and (iii) answers, objections, and motions on the validity of objections shall be served by 3:00 p.m. of the due date, unless the Staff or party upon whom service must be made agrees in advance to other arrangements.

(17) Forthwith upon receipt of this Order, the Company shall make available for inspection during regular business hours copies of its application, testimony, exhibits, this Order, and all other materials filed in this proceeding at the Rust Library, 380 Old Waterford Road, Leesburg, Virginia.

(18) On or before June 16, 2001, the Company shall publish twice as display advertising (not classified) in a newspaper or newspapers of general circulation in Loudoun County the following notice and a sketch map showing the location of the proposed facilities:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
LOUDOUN COUNTY POWER COMPANY, LLC
FOR APPROVAL OF GENERATION FACILITIES IN
LOUDOUN COUNTY
CASE NO. PUE010171

On March 28, 2001, as supplemented on May 15, 2001, Loudoun County Power Company, LLC ("Loudoun County Power" or "Company"), applied to the State Corporation Commission for a certificate of public convenience and necessity to construct and operate generation facilities in Loudoun County. The proposed facilities would be located just east of the Town of Leesburg, off Cochran Mill Road (Route 635), and approximately one (1) mile south of Virginia Route 7. The site is located in the Lee Center Business Park. The site abuts the Luck Stone-Virginia Trap Rock quarry, the Virginia Dominion Power Pleasant View substation, and parcels of undeveloped land. The Washington & Old Dominion Railroad Regional Park owned by the Northern Virginia Park Authority forms the western boundary of the site. A map showing the approximate location accompanies this notice.

The Company proposes a combined-cycle facility of up to 1,400 megawatts net generation capacity. In the alternative, the Company proposes a combustion turbine facility of 535 megawatts net generation capacity. According to Loudoun County Power, the combustion turbine facility would be constructed if the County of Loudoun does not approve zoning for the combined-cycle facility. Either facility would use natural gas supplied by existing pipelines as the primary fuel. Fuel oil stored on the site would be used for the combustion turbine facility as a secondary fuel. Either facility would interconnect at Virginia Electric and Power Company's Pleasant View Substation, which is adjacent to the site.

Loudoun County Power applied for a certificate of convenience and necessity under the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 et seq.) of Title 56 of the Code of Virginia. In addition to a certificate, Loudoun County Power asks the

Commission, as provided by § 56-265.2 B of the Code, for exemption from the provisions of Chapter 10 (§ 56-232 et seq.) of Title 56 of the Code. According to the Company, the facility would operate on a merchant plant basis exclusively at wholesale.

Loudoun County Power also seeks a waiver of, or exemption from, the requirements of § 56-234.3, Chapter 10 of Title 56 of the Code, which requires Commission approval before an electric utility may make financial commitments or expenditures for new generation facilities of 100 megawatts capacity or larger. In support of this relief, Loudoun Power Company stated in its application that its project requires expenditures for site preparation and permitting before the Commission will take final action. The Company would undertake these activities at its risk.

The Commission will consider whether a waiver should be granted to the construction approval requirement and will establish procedures for its consideration. The waiver would be interim pending entry of a final order determining whether the facility should be exempted from the provisions of Chapter 10 (§ 56-232 et seq.) of Title 56. The grant or denial of the waiver will not determine whether the Commission will or will not authorize the generation facilities.

The application may be inspected in the Commission's Document Control Center, Office of the Clerk of the Commission, First Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, during Commission business hours. Copies of the application may also be inspected during regular hours at the Rust Library, 380 Old Waterford Road, Leesburg, Virginia.

On or before June 25, 2001, any interested person may file with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, an original and fifteen (15) copies of any comments on the Company's request for a waiver of the requirements of § 56-234.3 of the Code or any request for a hearing on the issue, and shall serve one (1) copy on counsel to the Company, Stephen H. Watts, II, Esquire, McGuireWoods LLP, One James Center, 901 East Cary Street, Richmond, Virginia 23219-4030. Any request for hearing should state the specific grounds for a hearing and the evidence that the requesting person intends to introduce at such hearing. The Commission may act on the request for the interim waiver without further notice.

A public hearing to receive comments from the public on the application for a certificate of public convenience and necessity for the generation facilities will be held on September 6, 2001, at 2:00 p.m., and will reconvene at 7:00 p.m., in the Board of Supervisors Meeting Room, Loudoun County Government Center, 1 Harrison Street, S.E., Leesburg, Virginia. The hearing will be continued on September 13, 2001, at 10:00 a.m. in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, to receive comments from members of the public who could not speak at the hearing on September 6, 2001 and to receive evidence on the application. The scheduled hearing on the certificate of public convenience and necessity will be conducted irrespective of the action the Commission takes on the separate request for an interim waiver of the requirements of § 56-234.3 of the Code.

Any person not participating as a respondent may give oral testimony at the hearings as a public witness. These persons should arrive at the hearing location at

least 15 minutes before the start of the hearing and contact the Commission's Bailiff.

Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing date at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

On or before July 17, 2001, written comments on the Company's application shall be filed with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Such comments must refer to Case No. PUE010171.

On or before June 29, 2001, any person who expects to participate as a respondent shall file with the Clerk at the address set out above a notice of participation as a respondent, as required by the Commission's Rules of Practice and Procedure, 5 VAC 5-20-80 B, and shall serve a copy on counsel to the Company, Stephen H. Watts, II, Esquire, McGuireWoods LLP, One James Center, 901 East Cary Street, Richmond, Virginia 23219-4030, and Commission Staff counsel assigned to the matter, Wayne N. Smith, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218-1197. The respondent shall file and serve the notice of participation as required by the Rules, 5 VAC 5-20-140 and 5 VAC 5-20-150. Any organization, corporation, or government entity participating as a respondent must be represented by counsel as required by the Rules, 5 VAC 5-20-30. The Commission's Order for Notice and Hearing gives the complete procedural schedule and instructions on participation in this case.

A copy of the Order for Notice and Hearing may be obtained from the Clerk of the Commission. The text of the Order may be

viewed at the Commission's website:
<http://www.state.us./scc/caseinfo/orders.htm>
The Rules of Practice and Procedure and
other information may also be viewed on the
website.

LOUDOUN COUNTY POWER COMPANY, LLC

(19) On or before May 29, 2001, the Company shall serve a copy of this Order on the chairman of the board of supervisors of Loudoun County, the mayor of the Town of Leesburg, the chairman of the Northern Virginia Park Authority, the Secretary of Natural Resources, the Director of the Department of Environmental Quality, and upon the representative of every public service company listed on Attachment A of this Order. Service shall be made by first-class mail or delivery to the customary place of business or residence of the person served.

(20) On or before June 29, 2001, the Company shall file with the Clerk proof of the newspaper publication and proof of service required by ordering paragraphs (18) and (19).